


Colorado River Basin Regional Water Quality Control Board

TO: Mr. Tom Howard, P.E., Executive Director
State Water Resources Control Board

FROM: Jose L. Angel, P.E. 
Assistant Executive Officer
Colorado River Basin Regional Water Quality Control Board

DATE: October 13, 2014

SUBJECT: NATIONAL BEEF COMPANY (NBC) - NBC's OCTOBER 9, 2014,
LETTER IN RESPONSE TO MY REQUEST FOR THE STATE WATER
BOARD TO ENFORCE AGAINST NBC FOR PASS-THROUGH AND
INTERFERENCE

Dear Mr. Howard,

I am in receipt of NBC's October 9, 2014 letter wherein it contends that it should not be prosecuted for violations of pass through and interference. NBC's letter focuses on the merits of the alleged violations rather than the procedural aspects of the case which gave rise to my request that the State Water Board consider this matter on its own motion. Needless to say I disagree with the arguments made by NBC in its letter as to the merits of the alleged violations and will briefly address them here in order to demonstrate that there are valid questions of fact and law at issue that warrant the State Water Board's consideration.

In my opinion, the data provided in the Administrative Civil Liability Complaint issued to NBC does show a link between the discharges by NBC into the City of Brawley's POTW and the City's NPDES violations, which constitute pass through and interference violations.

In 2001, the City of Brawley (City) adopted an ammonia local limit for the slaughterhouse of 40 mg/L, with the explicit purpose to prevent Pass-Through and Interference (PTI) at its POTW. The City reduced the ammonia local limit to 30 mg/L in January 2005. This limit was in effect until March 17, 2014. The following day (3/18/2014), the Regional Water Board approved the City of Brawley Pretreatment Program. NBC has been the major controllable industrial source of ammonia into the City POTW, and NBC violated the City of Brawley ammonia local limit substantially. Further, NBC's violations of the local limit are linked to City NPDES violations. As shown in column seven of Attachment C of Administrative Civil Liability Complaint No. R7-2014-0042 (Complaint), for the periods covering June 2006 through November 2008¹, NBC's discharge was greater than 30 mg/L, which is the City's local limit, in 14 different months. In

¹ On November 19, 2008, our Regional Water Board amended Cease and Desist Order No. R7-2008-0008 to include an interim ammonia limit of 120 mg/L for the City WWTP.

other words, NBC was in chronic violation of the ammonia local limit (a) from June 2006 through September 2006; (b) from November 2006 through February 2007; (c) from April 2007 through September 2007; and (d) from April through May 2008. As a result of NBC's actions, the City of Brawley violated its NPDES Permit on multiple different occasions during these periods. For example NBC's November 15 through December 15, 2006 wastewater discharges into the City POTW caused Pass-through and Interference at the City POTW in December 2006 because NBC's November 15 through December 15, 2006 discharges into the POTW were greater than 30 mg/L, as shown by column 7 of Attachment C (i.e., NBC chronically violated the ammonia local limit); and the City violated its NPDES toxicity limits in and December 2006², as shown in Attachment J of the Complaint.

I firmly believe that NBC's performance data and the City POTW's monitoring data which were used to prepare the Complaint very conservatively support no less than 180 different instances of Pass-through and Interference, including chronic and daily instances of Pass-through and Interference. The violations are significant not just in number, but they also resulted in significant adverse water quality impacts on the New River, which is a Clean Water Act sec. 303(d) listed water. The New River is also a priority surface water for cleanup purpose not just for our Regional Water Board, but also for Cal/EPA and USEPA.

Thank you for your consideration to this matter. I can be reached at (760) 776-8932 should you or your designee(s) need additional information.

cc: Regional Water Board members
Robert Perdue, Regional Water Board
Ms. Lori Okun, OCC, RCB, Sacramento
Ms. AnnaKathryn Benedict, OE, SWRCB, Sacramento
Ms. Parthenia Evans, Kansas City, MO
Mr. Gideon Kracov, Los Angeles

² Toxicity Identification Studies conducted by the City identified ammonia as the toxicant.